



# IN THE PIPELINE

TEXAS PIPELINE ASSOCIATION NEWSLETTER

WINTER 2017

## FROM THE CHAIRMAN

Welcome to the winter 2017 issue of *In the Pipeline*, the Texas Pipeline Association's quarterly e-newsletter. In this issue, we spotlight the current legislative session, Sunset Review for the Railroad Commission of Texas and take an extensive look into the use of eminent domain. As we know, pipelines serve a critical role in providing families, businesses and industry with reliable, low-cost energy, and the resources used to make just about everything that we depend on in our daily lives. Therefore, we as an industry need to continue to educate the public and work toward a clear and mindful balance of regulations to ensure that pipeline infrastructure projects continue to get built on time, and are not hindered based on the current trends of permitting delays, litigation and protests.

During this legislative session, we expect that some lawmakers will propose "improvements" to the laws that govern the use of eminent domain. While we all believe in the importance of property rights, some proposals could impede critical infrastructure projects that are essential to the ongoing economic growth and development of Texas. Accordingly, TPA will play a significant role by working with a coalition of like-minded entities and groups committed to keeping Texas a great place to do business. Through the coalition, we will strive to promote legislation that continues to protect private property owner rights, while allowing for the responsible development of critical infrastructure in Texas.

We thank all of the contributing authors and hope you enjoy and benefit from the important topics covered in this issue.

Jim Cisarik, Chairman  
Texas Pipeline Association

## TPA ELECTS NEW CHAIRMAN AND OFFICERS



**A**t its annual meeting in January, TPA elected a new chairman, James A. "Jim" Cisarik, Enterprise Products Holdings LLC's senior vice president of government affairs and public relations.

"I am thrilled to welcome Jim," said TPA President Thure Cannon. "His versatile industry experience will prove invaluable to TPA during the legislative session and throughout the year. I would also like to thank outgoing chairman Michael A. Heim for his dedication and leadership in 2016."

From February 2003 to January 2014, Jim was a senior vice president of Enterprise, where he had primary responsibility for the oversight of the company's intrastate

natural gas pipelines and projects derived from LNG and other natural gas business development. Prior to Enterprise, Jim was a senior vice president of Coral Energy, LLC, and from 1997 to February 1999 was vice president, market development of Tejas Energy, LLC. He graduated from UT with a bachelor of business administration degree in petroleum land management.

### TPA 2017 Leadership

- James A "Jim" Cisarik, Chairman
- John Loiacano, Vice Chairman
- Michael A. Heim, Previous Chairman
- Thure Cannon, President
- Don Baldrige, Executive Committee, At Large Member
- Bill Ward, Executive Committee, At Large Member

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## MESSAGE FROM THE PRESIDENT



The 85<sup>th</sup> Texas Legislative Session gavelled in on Jan. 10 and for 140 days, the Legislature will debate numerous bills affecting the state. At the time of *In the Pipeline's* publication, more than 1,500 bills have been filed and TPA is already aggressively tracking more than 70 bills that could have an impact on the pipeline industry. Throughout the Legislative Session, TPA will track and review bills in several key issue areas, such as environmental and natural resource regulation, tax policy, civil justice reform issues affecting pipeline facilities and eminent domain reform proposals.

An issue that will almost certainly be addressed by the Legislature this session is eminent domain reform. A coalition of agricultural groups has banded together to form "Texans for Property Rights" and is pursuing an agenda that, if passed, would have far-reaching ramifications for how critical infrastructure is constructed in Texas. Proposals such as requiring the condemnor to pay landowner's attorney fees if a court rules that an offer is low, major modifications to the bona fide offer requirement and placing in statute that landowners have the ability to request royalty payments are a few of the issues being considered.

To combat these types of proposals, TPA is collecting data and partnering with other business and interest groups to establish a coalition committed to promoting fair property rights while maintaining the ability to address Texas' growing infrastructure needs. We look forward to being a major player in this effort and we appreciate all the data we have collected from member companies that allows us to illustrate our overwhelmingly positive negotiations with landowners.

As always and especially during Legislative Session, TPA relies on industry experts from our member companies to review and provide feedback on issues and pieces of legislation affecting our industry. I want to thank everyone who has contributed to this effort, as it helps to ensure a better legislative outcome. We look forward to keeping you informed of the happenings with the Legislature over the next several months and we hope you enjoy this installment of *In the Pipeline*.

– Thure Cannon



## AN UPDATE ON SUNSET REVIEW OF THE RRC

By Phil Gamble, The Law Office of Phil Gamble

The Sunset Commission of Texas met last Nov. 10, 2016 to consider final recommendations to the Legislature concerning the Railroad Commission of Texas (RRC).

Seven issues were presented by the Sunset Commission Staff in the [Decision Meeting Material](#) for consideration by the Sunset Commission at the meeting. In addition, Sunset Commission Members proposed six new issues.

Five of the seven issues recommended by the Sunset Commission Staff were approved by the Sunset Commission. One of the six new issues submitted by Sunset Commission members was approved by the Sunset Commission. The following issues were approved for inclusion in the Sunset Commission Final Report to the 85th Texas Legislature Session beginning this month.

- Issue number 1 - Recommend the 12-year continuation of the RRC. Remove the name change from the recommendation.
- Issue number 3 - Two statutory changes

requiring the RRC to develop a strategic plan for the Oil and Gas Division that tracks and measures the effectiveness of enforcement and develops a process for issuing expedited penalties for minor violations. This issue also includes six Management Action recommendations concerning the reporting and tracking of oil and gas production reports and operator violations.

- Issue number 5 - Two Statutory changes to improve oversight of the Texas pipeline infrastructure, including authorizing the RRC to enforce damage prevention requirements for interstate pipelines and the authority to create a pipeline permit fee.
- Issue number 6 - Three Management Action directives to the RRC concerning contract administration.
- Issue number 7 - Three Statutory changes, including adopting the alternative dispute resolution recommendation by the Sunset Commission, allowing the Oil and Gas Regulation and Cleanup Fund Advisory Committee to expire and continuing to require the RRC to submit its report on the

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## EMINENT DOMAIN

- Eminent domain is used approximately 5-10% of the time
- 82% of submissions claiming eminent domain authority came from government entities, not the oil and gas industry
- The industry's use of eminent domain for pipeline construction is used only as a last resort when all other options have been exhausted

## OUTLOOK FOR EMINENT DOMAIN IN 85TH TEXAS LEGISLATURE

By Steve Carroll, Norton Rose Fulbright

**O**n March 29, 2016, the Senate Committee on State Affairs conducted a hearing on compensation in eminent domain. The hearing was held in response to an Interim Charge to the Committee from the Lieutenant Governor as follows:

Gather and review data on the compensation provided to private property owners for property purchased or taken by entities with eminent domain authority. Examine the variances, if any, between the offers and the fair market values of properties taken through eminent domain. Make recommendations to ensure property owners are fairly compensated.

Many people testified at the hearing, and

many proposals were made to change eminent domain laws.

In November 2016 the committee sent an Interim Report to the Lieutenant Governor and the 85th Texas Legislature. The Interim Report discussed its findings concerning the eminent domain Interim Charge on pages 20-28 in the [report](#).

In contrast to statements made in a bill analysis during the 2015 Texas Legislative Session, which stated that “condemnors . . . take advantage of property owners by offering excessively low compensation...,” the Interim Report recognizes that “a private entity will often offer more than the appraised value of the property to encourage the owner to sell or lease the land, avoid litigation and start the proposed project as soon as possible.” See p. 25 of the [report](#). The Senate Committee on State Affairs made three legislative recommendations:

Property owners must have legal recourse to recover all, or at least a portion, of any attorney’s and professional fees incurred challenging the

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## PIPELINES BENEFIT THE STATE

 <p><b>WELL-PAYING JOBS</b></p>	 <p><b>KEEPS CONSUMER PRICES DOWN</b></p>	 <p><b>RAW MATERIALS FOR CONSUMER GOODS</b></p>	 <p><b>FEWER TRUCKS ON THE ROAD</b></p>
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Depending on economic conditions, conservative estimates covering the period from 2014-2024 indicate that the pipeline industry will contribute:



\*Area of Energy, Economics & Law, Jerry S. Rawls College of Business; Bob L. Herd Department of Petroleum Engineering and the Department of Construction Engineering and Engineering Technology, Edward E. Whitacre Jr. College of Engineering

# LNG EXPORTS: EXPANDING MARKETS FOR TEXAS NATURAL GAS

By Matt Barr, Cheniere Energy, Inc.



In February 2016, Cheniere Energy made history when it exported liquefied natural gas (LNG) from the continental U.S. for the first time in more than 50 years from its Sabine Pass LNG terminal near the Texas-Louisiana border. Since that time, more than 30 cargos have been shipped from the facility to more than 10 different countries around the world. This new chapter in America's energy story brings significant economic impact and will be a large-scale driver of new demand for the Texas energy industry.

Studies have shown that exporting LNG will generate as much as \$86 billion in net benefits to the U.S. economy and reduce

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## DENBURY DECISION IS IN

On Jan. 6, the Supreme Court of Texas issued its opinion in Denbury Green Pipeline-Texas, LLC v. Texas Rice Land Partners, Ltd. This is the second time this case has made its way to the Texas Supreme Court. The case has finally been resolved in the pipeline's favor. We'll have more on this important case in the next issue of *In the Pipeline*. In the meantime, here is coverage of the case by the *Dallas Morning News*, which quotes James Mann.



## TEXAS ENERGY DAY AT THE CAPITOL IS MARCH 22; PLEASE JOIN IN

The Texas Pipeline Association is proud to be participating in *Texas Energy Day* with several other trade associations and chambers from across Texas. We encourage our members and their employees to join us in Austin to tell lawmakers how important oil and natural gas is to their families, their communities and our state. See below for what's on tap for the day and [RVSP here](#) if you'd like to attend *Texas Energy Day* with us!

### Texas Energy Day Agenda

- 10-10:30 a.m. Breakfast briefing and material distribution
- 10:45-12 p.m. Office visits at the Capitol
- 12-1:30 p.m. Lunch on the lawn/outdoor exhibits
- 1:45-3:15 p.m. Guest speakers
- 3:30 p.m. Depart Austin

*\*Schedule subject to change*

## WELCOME NEW MEMBERS

Brazos Midstream  
Nextera Energy

## IMPORTANT DATES

- Jan. 10-May 29:** 85th Texas State Legislative Session
- Jan. 31:** TPA's eminent domain Questionnaire Due
- Feb. 1:** Eminent Domain Database Electronic Report Due with the Comptroller
- March 10:** 85th Legislature 60-day bill filing deadline
- March 22:** Texas Energy Day at the Capitol
- May 29:** 85th Legislature adjournment Sine Die
- June 18:** Post-Legislative Session 20-day deadline for Gov. Abbot to sign or veto bills
- Aug. 28:** Legislative effective date (91st day after adjournment)

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